*IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH*

*DATE OF DECISION: JANUARY 21, 2009*

Om Parkash and another

.....Petitioners

VERSUS

State of Haryana and others

....Respondents

**CORAM:- HON'BLE MR.JUSTICE RANJIT SINGH**

1. Whether Reporters of local papers may be allowed to see the judgement?
2. To be referred to the Reporters or not?
3. Whether the judgment should be reported in the Digest?

PRESENT: Dr. Surya Parkash, Advocate,
for the petitioners.

Mr. Narender Sura, AAG, Haryana,
for the State.

Mr. Sunil Saharan, Advocate for
Mr. Jatinder Dhanda, Advocate,
for respondent No.7.

Mr. Rakesh Gupta, Advocate,
for respondent Nos.8 to 12.

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*RANJIT SINGH, J.*

Petitioners allege that respondent Nos.8 to 12 have encroached a public street which had led to stopping the petitioners from ingress and outgress through the street. The petitioners accordingly moved Assistant Collector under Section 7 of the Punjab Village Common Land (Regulation) Act, 1961. The Assistant

Collector Ist Grade ordered eviction of the petitioners on 19.9.2001. Respondents filed an appeal before the Collector. Block Development and Panchayat Officer (respondent No.6), in the meantime, moved S.D.O. (Civil) for transferring/selling the street land to respondent Nos.8 to 12. The Collector, however, declined to transfer the same as it was a passage/street. He also dismissed the appeal filed by the respondents. Despite this position, the respondents did not take any step to clear the encroachment and to evict the respondents. The petitioners then moved respondent No.6 to execute the order. Respondent No.4 issued warrant of possession. Still, no steps were taken to remove the encroachment or to execute the warrants. The Deputy Commissioner was also approached, but still no action was taken to execute the order and to evict the encroachers from the street. The petitioners says that he had complained to the higher authorities, when warrant of possession was issued on 28.8.2006, but still respondent No.6 refused to execute the same. It is in this background that he has filed this writ petition seeking direction for respondent Nos.1 to 4 to implement their own order for removing encroachment from the public street.

In the written statement filed through the Block Development and Panchayat Officer on behalf of respondent Nos.1 to 6, it is stated that this writ petition is not maintainable against the answering respondents as the necessary orders, required to be made, have already been passed. Respondent Nos.8 to 12, however, would say that the petitioners have no right to file this petition and have done so only to settle their personal grievance. According to the respondents 8 to 12, no right of the petitioners or fundamental right

has been infringed for which they can maintain this present petition.

I have considered the prayer made in the petition. To me, it appears that the petitioners are seeking execution of the order of eviction passed by the authorities through this writ petition. This should not be the scope of writ court to execute the orders passed by the administrative authority. The writ court is not meant to be used like this for seeking execution of the orders passed by the revenue authorities. The petitioners have not shown any violation of their legal or fundamental rights to entitle them to maintain the present writ petition. The petitioners have to approach the authorities concerned to implement their own order passed.

I am, thus, not inclined to exercise my writ jurisdiction to deal with the prayer as made in the petition, which is accordingly dismissed.

**January 21,2009** **( RANJIT SINGH )**
*ramesh* **JUDGE**